

DOH STATE OF NEW YORK DEPARTMENT OF HEALTH

Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Barbara A. DeBuono, M.D., M.P.H.
Commissioner

Karen Schimke
Executive Deputy Commissioner

March 1, 1995

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Elizabeth C. Hogan, Esq.
NYS Dept. of Health
Rm. 2438 Corning Tower
Empire State Plaza
Albany, New York 12237

RECEIVED
MAR 01 1995
OFFICE OF PROFESSIONAL
MEDICAL CONDUCT

Danielle Turns, M.D.
15703 Flower Gap Road
Borden, Indiana 47106

Effective Date: 03/08/95

RE: In the Matter of Danielle Turns, M.D.

Dear Ms. Hogan and Dr. Turns :

Enclosed please find the Determination and Order (No. 94-236) of the Professional Medical Conduct Administrative Review Board in the above referenced matter. This Determination and Order shall be deemed effective upon receipt or seven (7) days after mailing by certified mail as per the provisions of §230, subdivision 10, paragraph (h) of the New York State Public Health Law.

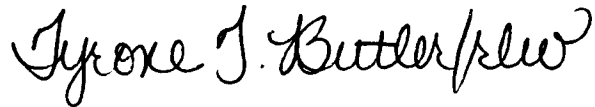
Five days after receipt of this Order, you will be required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate. Delivery shall be by either **certified mail or in person** to:

Office of Professional Medical Conduct
New York State Department of Health
Empire State Plaza
Corning Tower, Room 438
Albany, New York 12237

If your license or registration certificate is lost, misplaced or its whereabouts is otherwise unknown, you shall submit an affidavit to that effect. If subsequently you locate the requested items, they must then be delivered to the Office of Professional Medical Conduct in the manner noted above.

This exhausts all administrative remedies in this matter [PHL §230-c(5)].

Sincerely,

A handwritten signature in black ink that reads "Tyrone T. Butler" followed by a stylized flourish.

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:

Enclosure

**STATE OF NEW YORK : DEPARTMENT OF HEALTH
ADMINISTRATIVE REVIEW BOARD FOR
PROFESSIONAL MEDICAL CONDUCT**

**IN THE MATTER
OF
DANIELLE TURNS, M.D.**

**ADMINISTRATIVE
REVIEW BOARD
DECISION AND
ORDER NUMBER**

94-236

The Administrative Review Board for Professional Medical Conduct (hereinafter the "Review Board"), consisting of **ROBERT M. BRIBER, WINSTON S. PRICE, M.D., EDWARD C. SINNOTT, M.D.** and **WILLIAM A. STEWART, M.D.**¹ held deliberations on February 3, 1994 to review the Hearing Committee on Professional Medical Conduct's (Hearing Committee) November 17, 1994 Determination finding Dr. Danielle Turns (Respondent) guilty of professional misconduct. The Respondent requested the Review through a Notice which the Board received on December 9, 1994. James F. Horan served as Administrative Officer to the Review Board. Elizabeth C. Hogan, Esq. filed a brief for the Office of Professional Medical Conduct (Petitioner) on January 6, 1995, and a motion to dismiss the Respondent's appeal on December 19, 1994. The Respondent did not file a brief.

SCOPE OF REVIEW

New York Public Health Law (PHL) §230(10)(i), §230-c(1) and §230-c(4)(b) provide that the Review Board shall review:

- whether or not a hearing committee determination and penalty are consistent with the hearing committee's findings of fact and conclusions of law; and

¹Sumner Shapiro did not participate in the deliberations. Dr. Stewart participated in the deliberations through a telephone conference.

- whether or not the penalty is appropriate and within the scope of penalties permitted by PHL §230-a.

Public Health Law §230-c(4)(b) permits the Review Board to remand a case to the Hearing Committee for further consideration.

Public Health Law §230-c(4)(c) provides that the Review Board's Determinations shall be based upon a majority concurrence of the Review Board.

HEARING COMMITTEE DETERMINATION

The Petitioner brought this case pursuant to Public Health Law Section 230(10)(p) and Education Law Section 6530(9)(a)(i), which provide an expedited hearing in cases in which professional misconduct charges against a Respondent are based upon a prior criminal conviction in New York or another jurisdiction or upon a prior administrative adjudication which would amount to misconduct if committed in New York State. The expedited hearing determines the nature and severity of the penalty which the Hearing Committee will impose based upon the criminal conviction or prior administrative adjudication.

The Hearing Committee in this case found that the Petitioner had met its burden of proof in establishing that the Respondent had been disciplined by another state for action which would constitute misconduct in New York State. The Committee found that the Respondent had entered a Consent Agreement with the Kentucky State Board of Medical Licensure. The Kentucky Board suspended the Respondent's Kentucky license for two years, placed her on five years probation, mandated that she participate in an Impaired Physician's Program and ordered that she refrain from the use of intoxicating or controlled substances, undergo random biological testing, and cease prescribing controlled substances for a two year period. The Committee found further that the conduct underlying the Kentucky action involved active abuse of alcohol. The Committee found that the Respondent's actions in Kentucky would constitute misconduct in New York, for being a habitual abuser of alcohol.

The Committee voted to revoke the Respondent's license to practice medicine in New York. The Committee noted that documents in evidence indicated that the Respondent had suffered a number of relapses following treatment for alcohol dependence, including a 1993 relapse. The Committee concluded that the Respondent's level of impairment made revocation the appropriate penalty.

REQUESTS FOR REVIEW

As noted, the Respondent failed to submit a brief, even though she requested the Review.

The Petitioner has requested that the Review Board dismiss the Respondent's appeal, because the Respondent failed to serve a copy of the Notice of Review on the Petitioner. In the alternative, the Petitioner urges that the Review Board sustain the Hearing Committee's Determination to revoke the Respondent's license to practice medicine in New York State.

REVIEW BOARD DETERMINATION

The Review Board has considered the entire record below and the briefs which counsel have submitted.

The Review Board denies the Petitioner's motion to dismiss this case. The Petitioner obtained actual notice of the Respondent's appeal through the letter which our Administrative Officer sent to both parties, to advise them of the date for filing briefs. The Petitioner was not prejudiced by the Respondent's failure to serve a notice directly on the Petitioner.

In the absence of a brief from the Respondent setting out the issues which she wishes to raise with the Review Board, the Board reviewed the Hearing Committee's Determination to decide whether the Determination was consistent with the Committee's findings and conclusions and whether the Committee's Penalty was consistent with the findings and conclusions and whether the Penalty was appropriate.

The Review Board votes to sustain the Committee's Determination that the Respondent was guilty of professional misconduct. The Determination was consistent with the Committee's finding that the Respondent had been disciplined in Kentucky for active abuse of alcohol.

The Review Board sustains the Hearing Committee's Determination revoking the Respondent's license to practice medicine in New York State. The Penalty is appropriate in view of the Respondent's active abuse of alcohol and in view of the number of relapses the Respondent suffered following treatment. The Review Board sees no mitigating factors in the Respondent's case.

ORDER

NOW, based upon this Determination, the Review Board issues the following **ORDER**:

1. The Review Board **sustains** the Hearing Committee on Professional Medical Conduct's November 17, 1994 Determination finding Dr. Danielle Turns guilty of Professional Misconduct.

2. The Review Board **sustains** the Hearing Committee's Determination to revoke the Respondent's license to practice medicine in New York State.

ROBERT M. BRIBER

WINSTON S. PRICE, M.D.

EDWARD SINNOTT, M.D.

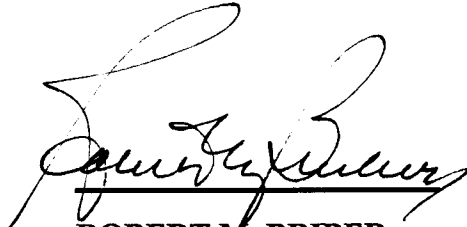
WILLIAM A. STEWART, M.D.

IN THE MATTER OF DANIELLE TURNS, MD

ROBERT M. BRIBER, a member of the Administrative Review Board for Professional Medical Conduct, concurs in the Determination and Order in the Matter of Dr. Turns.

DATED: Albany, New York

2/17 , 1995



ROBERT M. BRIBER

IN THE MATTER OF DANIELLE TURNS, MD

WINSTON S. PRICE, M.D., a member of the Administrative Review Board for Professional Medical Conduct, concurs in the Determination and Order in the Matter of Dr. Turns.

DATED: Brooklyn, New York

_____, 1995

A handwritten signature in black ink, appearing to read 'W. S. Price', written over a horizontal line.

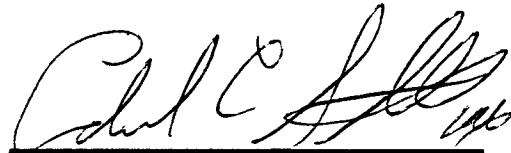
WINSTON S. PRICE, M.D.

IN THE MATTER OF DANIELLE TURNS, MD

EDWARD C. SINNOTT, M.D., a member of the Administrative Review Board for Professional Medical Conduct, concurs in the Determination and Order in the Matter of Dr. Turns.

DATED: Roslyn, New York

February 23, 1995

A handwritten signature in black ink, appearing to read "Edward C. Sinnott" with a flourish at the end. The signature is written over a horizontal line.

EDWARD C. SINNOTT, M.D.

IN THE MATTER OF DANIELLE TURNS, MD

WILLIAM A. STEWART, M.D., a member of the Administrative Review Board for Professional Medical Conduct, concurs in the Determination and Order in the Matter of Dr. Turns.

DATED: Syracuse, New York

13 Feb., 1995

A handwritten signature in cursive script that reads "William A. Stewart". The signature is written in black ink and is positioned above a solid horizontal line.

WILLIAM A. STEWART, M.D.